

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL SPHAR,

Plaintiff,

v.

**AON CONSULTING, INC., BMC
SOFTWARE, INC., and HEWITT
ASSOCIATES LLC,**

Defendant.

No. 08 C 3489

Judge Samuel Der-Yeghiayan
Magistrate Judge Geraldine Soat Brown

JOINT INITIAL STATUS REPORT

NOW COME the parties, by their attorneys of record, Jonathan Goldman (lead trial attorney) and Arthur Ehrlich on behalf of Plaintiff Michael Sphar, Jody Boquist (lead trial attorney) and Marissa Ingley on behalf of Defendant Aon Consulting, Inc., and Michael Gray (lead trial attorney) and Efrat R. Schulman on behalf of BMC Software, Inc. and for their Initial Status Report state as follows:

1. Plaintiff's claim is for damages he incurred because he allegedly did not receive notice of continuation of his health coverage as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 ("COBRA"), 29 U.S.C. § 1161, *et seq.*

2. Plaintiff seeks COBRA benefits retroactive to November 1, 2007, payment of all medical bills incurred since his discharge in the manner his health insurance benefit plan would have paid, penalties, and attorneys' fees and costs.

3. Defendant Hewitt Associates LLC has not been served. Hewitt did not return its Notice of Waiver. A Summons was issued on August 6, 2008.

4-5. The factual and legal issues are:

- a. Whether Plaintiff's employer notified its group health plan administrator of Plaintiff's termination.
- b. Whether the plan administrator caused notice to be sent in a good faith

manner reasonably calculated to reach the former employee, in this instance, Plaintiff.

6. There are no pending motions.
7. Discovery has not yet been initiated.
8. The parties need and will request written interrogatories, requests for production, and depositions. While each party is aware of the obligation to preserve discoverable information, regardless of its format, the parties do not anticipate that this matter will involve significant, if any, electronic discovery. The parties will produce electronically stored information in paper format or as a .pdf file on a CD, depending upon the volume of information at issue. Any inadvertently produced information shall be returned to the party who inadvertently produced such information, and production of such information shall not constitute a waiver of any attorney-client, work product, or other applicable privilege or protection.
9. The parties suggest the following scheduling dates:
 - a. The parties will exchange Rule 26(a)(1) initial disclosures by August 21, 2008.
 - b. Fact discovery will be completed by November 21, 2008.
 - c. At this time, the parties do not anticipate they will need expert testimony.
 - d. Dispositive motions must be filed on or before December 22, 2008.
 - e. Final pretrial orders are due 30 days after the Court rules on dispositive motions.
10. This case should be ready for trial 60 days after the Court rules on the dispositive motions.
11. The trial will likely last two days.
12. Plaintiff requested a jury trial. However, it is Defendants' position that said request is improper since there is no right to a jury trial on COBRA claims under ERISA.
13. The parties have not engaged in settlement discussions.
14. The parties do not consent to proceed before a Magistrate Judge.

Respectfully submitted,

s/Marissa Ross Ingley

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CERTIFICATE OF SERVICE

I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following attorneys of record on this 7th day of August, 2008:

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/s/Marissa Ross Ingley
One of the Attorneys for Defendant Aon
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